

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**R/CRIMINAL MISC.APPLICATION (FOR CONTEMPT OF COURT) NO.
5207 of 2011**

With

R/CRIMINAL MISC.APPLICATION NO. 5826 of 2021

With

R/CRIMINAL MISC.APPLICATION NO. 11750 of 2008

With

CRIMINAL MISC.APPLICATION (DIRECTION) NO. 1 of 2017

In R/CRIMINAL MISC.APPLICATION NO. 11750 of 2008

With

CRIMINAL MISC.APPLICATION (DIRECTION) NO. 1 of 2018

In R/CRIMINAL MISC.APPLICATION NO. 11750 of 2008

With

R/CRIMINAL MISC.APPLICATION NO. 17445 of 2013

In

R/CRIMINAL MISC.APPLICATION NO. 11750 of 2008

With

R/CRIMINAL MISC.APPLICATION NO. 18216 of 2013

With

R/CRIMINAL MISC.APPLICATION NO. 19971 of 2013

With

R/CRIMINAL MISC.APPLICATION NO. 20723 of 2013

With

R/CRIMINAL MISC.APPLICATION NO. 5199 of 2011

With

R/CRIMINAL MISC.APPLICATION NO. 5200 of 2011

With

CRIMINAL MISC.APPLICATION (DIRECTION) NO. 1 of 2018

In R/CRIMINAL MISC.APPLICATION NO. 5200 of 2011

With

R/CRIMINAL MISC.APPLICATION NO. 5201 of 2011

With

R/CRIMINAL MISC.APPLICATION NO. 5202 of 2011

With

R/CRIMINAL MISC.APPLICATION NO. 5203 of 2011

With

R/CRIMINAL MISC.APPLICATION NO. 5204 of 2011

With

R/CRIMINAL MISC.APPLICATION NO. 5205 of 2011

With

R/CRIMINAL MISC.APPLICATION NO. 5206 of 2011

With

R/CRIMINAL MISC.APPLICATION NO. 5208 of 2011

With



R/CRIMINAL MISC.APPLICATION NO. 5209 of 2011
With
R/CRIMINAL MISC.APPLICATION NO. 6030 of 2011
With
R/CRIMINAL MISC.APPLICATION NO. 8947 of 2011
With
CRIMINAL MISC.APPLICATION (FOR DIRECTION) NO. 1 of 2012
In R/CRIMINAL MISC.APPLICATION NO. 8947 of 2011
With
R/CRIMINAL MISC.APPLICATION NO. 9165 of 2011
With
R/CRIMINAL MISC.APPLICATION NO. 9166 of 2011
With
R/CRIMINAL MISC.APPLICATION NO. 9167 of 2011
With
R/CRIMINAL MISC.APPLICATION NO. 9168 of 2011
With
R/CRIMINAL MISC.APPLICATION NO. 9169 of 2011
With
R/CRIMINAL MISC.APPLICATION NO. 315 of 2014
With
CRIMINAL MISC.APPLICATION (DIRECTION) NO. 1 of 2018
In R/CRIMINAL MISC.APPLICATION NO. 315 of 2014
With
R/CRIMINAL MISC.APPLICATION NO. 2937 of 2014
With
R/CRIMINAL MISC.APPLICATION NO. 20516 of 2014
With
R/CRIMINAL MISC.APPLICATION NO. 2330 of 2015
With
R/CRIMINAL MISC.APPLICATION NO. 19491 of 2015
With
R/CRIMINAL MISC.APPLICATION NO. 21776 of 2015
With
R/CRIMINAL MISC.APPLICATION NO. 24941 of 2015
With
R/CRIMINAL MISC.APPLICATION NO. 883 of 2016
With
R/CRIMINAL MISC.APPLICATION NO. 4243 of 2016
With
R/CRIMINAL MISC.APPLICATION NO. 17185 of 2016

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA
and

Sd/-



HONOURABLE MR.JUSTICE R. T. VACHHANI Sd/- .

Approved for Reporting	Yes	No

SUO MOTU
Versus
DEVESH BHATT & ANR.

Appearance:

MR ASIM J PANDYA(542), SENIOR ADVOCATE (AMICUS CURIAE)
for the Applicant(s) No. 1

SUO MOTU for the Applicant(s) No. 1

KURVEN K DESAI(7786) for the Respondent(s) No. 1

MS VRUNDA SHAH, APP for the Respondent(s) No. 2

CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**

and

HONOURABLE MR.JUSTICE R. T. VACHHANI

Date : 23/07/2025

COMMON ORAL ORDER

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. **RULE.** The present contempt applications have been initiated *suo motu* by the High Court against the single contemnor, Mr. Devesh Bhatt, an advocate practicing in the Gujarat High Court as well as in the Courts of State Judiciary. Today, we are informed by learned advocates for the respective parties that the Bar Council of Gujarat (BCG) has debarred the contemnor from practicing in any court, due to his misconduct of leveling reckless and scandalous allegations against Hon'ble Chief Justice's and Hon'ble Judges of this Court and also against the Judicial Officers.

2. Numerous orders have been passed by this Court against the contemnor. The order sheets reflect that,ailable warrants, as well as non-ailable warrants, were issued intermittently to secure his presence. He was arrested, and also remained in jail. He was also directed to deposit a sum of Rs. 5,00,000/- (Rupees Five Lakhs) as a security for remaining present in the present proceeding as and when it is listed.



3. Judicial Officers have also informed to this Court about the imputations and false allegations leveled against them, as well as the use of libelous language in the court proceedings. Accordingly, *suo motu* contempt proceedings are also registered in this regard.

4. Pursuant to the non-bailable warrant issued against Mr.Devesh Bhatt, he was asked to file an undertaking, which is on record, and to deposit an amount of Rs.5,00,000/- (Rupees Five Lakhs) and to assure that he would regularly remain present in the present proceedings. It was further stated that, any single failure or default in remaining present, non-cooperation, etc., would be sufficient to forfeit this amount forthwith, and he would have no right to object.

5. Despite this undertaking, the contemnor has not chosen to remain present on any of the dates on which the matters were listed, and hearings have taken place. Ultimately, this Court had no option but to appoint learned advocate Mr.Kurven Desai from the panel of Legal Aid, to defend his case.

6. On 11.11.2011, this Court observed that the opponent - Mr.Devesh Bhatt was aware that a Special Bench was constituted to hear multiple contempt cases pending against him. Pursuant to the order dated 21.10.2011, he was called upon to explain why fresh contempt proceedings should not be initiated and why his bail bond should not be forfeited due to violation of bail conditions.

7. Despite this, the opponent failed to remain present. The order dated 09.09.2011, recorded by the Coordinate Bench, noted that the opponent was directed to remain present on the date fixed by the Court. While



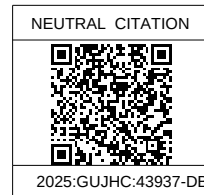
releasing him on bail on 09.09.2011, a statement was recorded from the opponent, in which he undertook not to indulge in any activity that might lead to the registration of fresh contempt cases during hearing and disposal of the present set of proceedings. Despite this undertaking, the opponent continued to make frivolous and unfounded allegations against the Honorable Judges of this Court.

8. On 11.11.2011, a show-cause notice was issued to the opponent for indulging in the same conduct, calling upon him to explain as to why fresh contempt proceedings should not be initiated and his bail bond should not be forfeited in view of violation of conditions of bail. Such orders were passed during the pendency of the present proceedings, yet the opponent did not remain present.

9. On 21.10.2011, this Court directed the learned Assistant Public Prosecutor to instruct the Police Inspector, Gujarat University Police Station, to submit an application before the learned Chief Metropolitan Magistrate, Ahmedabad, for issuing a proclamation against the opponent. The non-bailable warrant was not executed as the opponent was not available at his residence or office.

10. On 22.08.2013, a bailable warrant of Rs. 10,000/- was issued. Although the said order was served, the opponent did not remain present. Consequently, by order dated 11.10.2013 a non-bailable warrant was issued, and the concerned Police Officer of the University Police Station, Ahmedabad, was directed to produce the opponent within 24 hours. The matters were adjourned to 18.10.2013.

11. On 26.09.2013, the Court sent the opponent to custody, refusing his request for release on bail. He was directed to be produced before the Court on 26.12.2013.



12. Thereafter, the opponent was released on temporary bail by the order dated 09.05.2014, upon furnishing a personal bond of Rs. 10,000/- with one surety of like amount, on the condition that he shall remain present before this Court on each and every date in any of the applications and he shall not write any letter concerning the Judicial Officers in the judiciary of the State of Gujarat. The opponent had violated this order. On 12.09.2014, the Court granted last opportunity to the opponent, to appear in the proceedings. However, he did not appear and avoided the proceedings.

13. After release of the opponent, he misused his liberty by making further allegations against the Judicial Officers. Consequently, this Court by order dated 01.10.2014 issued a non-bailable warrant against him, and the matter was listed on 12.11.2014.

14. Despite the aforesaid order, the opponent made reckless allegations against the sitting Honorable Judges of this Court. Due to such communications, the Court recused himself from the proceedings on 26.11.2014, and the entire group of matters was directed not to be listed before that Court. These facts are recorded in the order dated 19.07.2016.

15. A non-bailable warrant was issued on 27.07.2016. However, the opponent had chosen not to remain present till today. Hence, this Court has no option but to proceed with the matters by appointing learned advocate Mr.Desai to represent his case, since the present proceedings cannot be adjourned indefinitely for want of his presence.

16. On 07.09.2016, the Court recorded that, as per the undertaking given by the opponent on 09.09.2011, he was required to remain present on all dates when the matters were listed and to deposit Rs. 5,00,000 by



way of security in the Registry by demand draft. He was directed to remain present in the proceedings, failing which the said amount will stand forfeited, and the non-bailable warrant was ordered not to remain in force.

17. There is a voluminous record of reckless and scandalous allegations leveled by Mr. Devesh Bhatt. It is noticed that the contemnor has a tendency to level scandalous allegations against a particular Hon'ble Judge or Judicial Officers in the proceedings wherever he files, either before this High Court or before any other forum. This *modus operandi* of browbeating the presiding Judges is adopted by him in almost every court, in which he has filed the proceedings.

18. We may refer to few of the scandalous and libelous communications for establishing the contempt of Court.

19. It is also observed that the contemnor has issued notices for the initiation of contempt proceedings and criminal proceedings against sitting Hon'ble Chief Justices and Hon'ble Judges of this Court. We may mention few of them.

20. One of such notices, is dated 15.01.2010, issued by him calling upon an Honorable Sitting Judge (Justice Akil Kureshi) of this Court to answer within 21 days, failing which suitable action would be taken in accordance with law. Similar notices have been issued to the Hon'ble Judge (Justice R.P.Dholakia) on 11.11.2009 and 27.01.2010, when he was serving as Presiding Officer of State Consumer Disputes Redressal Commission. On .09.12.2009, he has filed an application seeking permission to prosecute the sitting Hon'ble Judge (Justice H.N.Devani) under the Prevention of Corruption Act, 1988. Notices dated 29.08.2009



and 09.10.2009 were issued to Hon'ble Mr.Justice A.L.Dave and Mr.Justice K.A.Puj. Notice dated 08.09.2009 to Hon'ble the Chief Justice K.S.Radhakrishnan.

21. Similar notices have been addressed to the Registrar, High Court of Gujarat, and Judicial Officers of trial courts, which are on record. It appears that 52 notices have been issued, including the public notices in the newspapers, by Mr. Devesh Bhatt to the Hon'ble Chief Justices, Hon'ble Judges of this Court, the Registrar General, Judicial Officers, Metropolitan Magistrates, Sessions Judges, etc.

22. The contemnor has also addressed letters to the Secretary of Law, the Hon'ble Chief Minister, various Hon'ble Ministers, and the Hon'ble Chief Justice of this Court, leveling serious and reckless allegations against the sitting Hon'ble Judges. One glaring example is the letter dated 15.09.2016, written by the contemnor to the Police Commissioner, relating to the non-bailable warrants, wherein he leveled allegations against the Hon'ble Chief Justice of this Court.

23. It is noted that, Mr. Devesh Bhatt published a public notice in The Western Times' newspaper on 10.12.2014, relating to the present proceedings and naming a Hon'ble Judge of this Court, stating that the Judge ought not to have proceeded with Criminal Misc. Application No. 5207 of 2011 and other allied matters, as no one should sit in the chair of justice to decide one's own cause.

24. Another notice was published by him in the newspaper on 28.06.2016, naming another Hon'ble Judge of this Court. Despite the issuance of various bailable and non-bailable warrants, the contemnor has remained recalcitrant and has continued indulging in contemptuous behavior.



25. Another instance noted is that Mr. Devesh Bhatt, on the advice of his client, issued a notice on 14.06.2013, seeking permission under Section 197 of the Code of Criminal Procedure, 1973, and Section 19(1) (b) of the Prevention of Corruption Act, 1988, to prosecute a sitting Judge of this Court for offenses under Sections 166, 217, 218, 219, 220, 406, and 500 of the Indian Penal Code, 1860 and Section 13(1)(d) of the Prevention of Corruption Act, 1988.

26. A similar sanction to prosecute a sitting Judge of this Court, leveling allegations against him, was sought by Mr. Devesh Bhatt from the President of India in a letter dated 16.01.2013. Another letter, dated 13.12.2012, was addressed to the Secretary to the President of India, seeking permission to prosecute another sitting Judge under the Prevention of Corruption Act, 1988.

27. On 06.07.2006, the contemnor published a public notice in The Western Times (English edition), leveling allegations of corruption and illegal gratification against the Honorable Chief Justice of Gujarat.

28. Another letter, dated 19.02.2013, was written by Mr. Devesh Bhatt to the Registrar General of this Court and the Law Minister, Ministry of Law and Justice, Government of India, New Delhi, to ensure that the Hon'ble Chief Justice of this Court is not considered for elevation to the Supreme Court.

29. The list of such acts is exhaustive, and to avoid prolixity, we refrain from referring to further documentary evidence on record. When these reckless allegations against the sitting Judges and the Hon'ble Chief Justice of this Court were noticed, we called upon learned advocate Mr. Kurven Desai, learned advocate to present the case of Mr. Devesh Bhatt and to point out anything he may have to say in the present proceedings.



Learned Senior Advocate Mr.Asim Pandya, was appointed as *amicus curiae*.

30. Learned Senior Advocate Mr. Asim J. Pandya, appointed as *amicus curiae* in the present matters, has submitted that strict action must be taken against the contemnor, as despite numerous opportunities to mend his ways, he has neither tendered an apology nor shown any improvement. It is submitted by Mr. Pandya that, during the pendency of the present proceedings, the contemnor continued his scandalous attack against the Judicial Officers and Hon'ble Judges of this Court. He further submitted that the contemnor leveled reckless allegations against him also and had filed a criminal complaint, being Criminal Misc. Application No. 17445 of 2013, against him personally, alleging that he was not discharging his duties as *amicus curiae* independently and had committed offense, including defamation. This proceedings was stayed by the Coordinate Bench vide order dated 25.10.2013.

31. It is further submitted that these acts amount to obstruction of justice, as filing complaints against the *amicus curiae* to restrain him from acting in that capacity constitutes contemptuous conduct.

32. At the outset, learned advocate Mr. Kurven Desai has submitted that, since the proceedings have been ongoing for the last 15 years and considering the health of the contemnor, leniency may be shown to him. He has submitted that the acts committed by Mr. Devesh Bhatt do not directly interfere with the administration of justice. In support of his submission, he placed reliance on the judgment of the Supreme Court in the case of Baradakanta Mishra vs. Registrar of Orissa High Court & Anr., 1974 (1) S.C.C. 374. It is further submitted by learned advocate Mr. Desai that, in some matters, action was initiated beyond the



limitation period of one year, as prescribed under Section 20 of the Contempt of Courts Act, 1971, and in such matters, no proceedings ought to have been initiated, and the matters should not be entertained. In support of this submission, he has relied on the judgment of the Supreme Court in the case of Pallav Sheth vs. Custodian, 2001 (7) S.C.C. 549. Finally, Mr. Desai urged that, since the contemnor is an advocate and is already barred from practice by the Bar Council of Gujarat and has deposited Rs.5,00,000/- before the Registry of this Court, the present proceedings may be closed.

33. In response, learned Senior Advocate Mr.Asim J. Pandya submitted that the contemnor may not be pardoned in any sense, and a strict sentence, including the maximum sentence and fine, is required to be imposed upon him. He submitted that the contemnor has not only scandalized the Court but also depicted unruly behavior that has directly impacted the administration of justice, not only of the High Court but also of the State judiciary. He has further submitted that, despite ongoing contempt proceedings, the contemnor did not mend his ways and continued to level reckless allegations against the sitting Judges, the Hon'ble Chief Justice, and Judicial Officers. He urged that a separate sentence be passed in each matter, which should not run concurrently but consecutively to set an appropriate example for others who scandalize the courts. He has also submitted that, over and above the forfeiture of Rs. 5,00,000/- deposited by him, further exemplary costs should be imposed.

34. With regard to the contention raised by learned advocate, Mr.Desai relating to the limitation in some matters, where cognizance was taken beyond one year, Mr.Pandya, learned Senior Advocate, fairly submitted that, as per the decision of the Supreme Court in the case of ***Pallav Sheth (supra)***, those matters may be segregated. However, he submitted that,



even if, Mr.Devesh Bhatt is found guilty and punished in one of the matters, it would suffice to prevent him from appearing before any court of law. He urged that the maximum punishment provided under Section 12 of the Contempt of Courts Act, 1971, be imposed upon the contemnor.

35. Having heard the learned advocates appearing for the respective parties at length. The Coordinate Bench, in its order dated 19.07.2016, has recorded various orders passed against the contemnor, Mr.Devesh Bhatt. These orders reflect that various bailable warrants were issued to secure his presence, and non-bailable warrants were also issued. He was also arrested and remained behind bars for approximately 80 days, and even after mercy shown by this Court, and was released, he again continued with his egregious conduct, and has not attended the proceedings. Ultimately, he remained present and filed an undertaking before this Court. Despite this undertaking, he has chosen not to remain present during the proceedings as and when they were taken up by this Court. Ultimately, the Court appointed Mr.Kurven Desai, learned advocate from the Legal Aid Panel to represent him.

36. The documents on record and the orders passed against the contemnor suggest that he has not only indulged in boisterous behavior but has systematically undertaken a campaign with ill-motive to demean and lower the majesty of this Court by making scandalous and libelous allegations against the Hon'ble Judges, Hon'ble Chief Justice of this Court and the Judicial Officers.

37. Thus, several captioned suo motu proceedings were initiated against the contemnor for scandalous attacks. We may deal with the scope of powers conferred to the High Court under Article 215 of the Constitution read with the provisions of the Contempt of Courts Act,



1971. In the case of *Prashant Bhushan (Contempt Matter), In re*, (2021) 1 S.C.C. 745, the Supreme Court has reiterated and held that the High Courts enjoy similar powers as the Supreme Court under Article 215 of the Constitution of India, 1950. The Supreme Court rejected the argument of the alleged contemnor that the notice for initiation of contempt proceedings should have been issued in terms of the provisions of the Contempt of Courts Act, 1971, holding that any violation of the Act would not vitiate the entire proceedings. Paragraph Nos. 9 to 11 of the said case are as follows:

"7 Insofar as the contention of the learned Senior Counsel appearing for the alleged contemnor No.1, that in the present case, the Court could not have initiated suo motu proceedings and could have proceeded on the petition filed by Mr. Mahek Maheshwari only after the consent was obtained from the learned Attorney General for India is concerned, very recently, a Bench of this Court has considered identical submissions in the case of Re: Vijay Kurlle & Ors., 2020 SCC Online SC 407 (Suo Motu Contempt Petition (Criminal) No.2 of 2019. The Bench has considered various judgments of this Court on the issue, in detail. Therefore, it will be apposite to refer to the following paragraphs of the judgment wherein the earlier law has been discussed in extenso:

"Powers of the Supreme Court

7. Before we deal with the objections individually, we need to understand what are the powers of the Supreme Court of India in relation to dealing with contempt of the Supreme Court in the light of Articles 129 and 142 of the Constitution of India when read in conjunction with the Contempt of Courts Act, 1971. According to the alleged contemnors, the Contempt of Courts Act is the final word in the matter and if the procedure prescribed under the Contempt of Courts Act has not been followed then the proceedings have to be dropped. On the other hand, Shri Sidharth Luthra, learned amicus curiae while making reference to a large number of decisions contends that the Supreme Court being a Court of Record is not bound by the provisions of the Contempt of Courts Act. The only requirement is that the procedure followed is just and fair and in accordance with the principles of natural justice.

Article 129 of the Constitution of India reads as follows:

"129. Supreme Court to be a court of record.- The Supreme Court shall be a court of record and shall have all the powers of such a court including the power to punish for contempt of itself."

A bare reading of Article 129 clearly shows that this Court being a Court of Record shall have all the powers of such a Court of Record including the power to punish for contempt of itself. This is a constitutional power which



cannot be taken away or in any manner abridged by statute.

Article 142 of the Constitution of India reads as follows:

"142. Enforcement of decrees and orders of Supreme Court and orders as to discovery, etc.- (1) The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree so passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, in such manner as the President may by order prescribe.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Supreme Court shall, as respects the whole of the territory of India, have all and every power to make any order for the purpose of securing the attendance of any person, the discovery or production of any documents, or the investigation or punishment of any contempt of itself."

Article 142 also provides that this Court can punish any person for contempt of itself but this power is subject to the provisions of any law made by parliament. A comparison of the provisions of Article 129 and clause (2) of Article 142 clearly shows that whereas the founding fathers felt that the powers under clause 92) of Article 142 could be subject to any law made by parliament, there is no such restriction as far as Article 129 is concerned. The power under clause (2) of Article 142 is not the primary source of power of Court of Record which is Article 129 and there is no such restriction in Article 129. Samaraditya Pal in the Law of Contempt has very succinctly stated the legal position as follows:

"Although the law of contempt is largely governed by the 1971 Act, it is now settled law in India that the High Courts and the Supreme Court derive their jurisdiction and power from Articles 215 and 129 of the Constitution. This situation results in giving scope for "judicial self-dealing".

The High Courts also enjoy similar powers like the Supreme Court under Article 215 of the Constitution. The main argument of the alleged contemnors is that notice should have been issued in terms of the provisions of the Contempt of Courts Act and any violation of the Contempt of Courts Act would vitiate the entire proceedings. We do not accept this argument. In view of the fact that the power to punish for contempt of itself is a constitutional power vested in this Court, such power cannot be abridged or taken away even by legislative enactment.

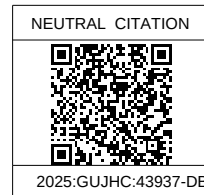
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18 *From the perusal of various judgments of this Court, including those of the Constitution Benches, it could be seen, that the source of power of this Court for proceeding for an action of contempt is under Article 129. It has further been held, that power of this Court to initiate contempt is not in any manner limited by the provisions of the Contempt of Courts Act, 1971. It has been held, that the Court is vested with the constitutional powers to deal with*

the contempt and Section 15 is not the source of the power to issue notice for contempt. It only provides the procedure in which such contempt is to be initiated. It has been held, that insofar as suo motu petitions are concerned, the Court can very well initiate the proceedings suo motu on the basis of information received by it. The only requirement is that the procedure as prescribed in the judgment of P.N. Duda (supra) has to be followed. In the present case, the same has undoubtedly been followed. It is also equally settled, that as far as the suo motu petitions are concerned, there is no requirement for taking consent of anybody, including the learned Attorney General because the Court is exercising its inherent powers to issue notice for contempt. It is equally well settled, that once the Court takes cognizance, the matter is purely between the Court and the contemnor. The only requirement is that, the procedure followed is required to be just and fair and in accordance with the principles of natural justice. In the present case, the notice issued to the alleged contemnors clearly mentions the tweets on the basis of which the Court is proceeding suo motu. The alleged contemnor No.1 has also clearly understood the basis on which the Court is proceeding against him as is evident from the elaborate affidavit-in-reply filed by him."

38. The Supreme Court, has held that the High Court under Article 215 of the Constitution of India enjoy similar power given to the Supreme Court under Article 129, and had that the power to punish for contempt is a constitutional power vested in this Court, cannot be abridged or taken away by legislative enactment. It has been held, that the Court is vested with the constitutional powers to deal with the contempt and Section 15 is not the source of the power to issue notice for contempt. It only provides the procedure in which such contempt is to be initiated. It has been further held, that insofar as suo motu petitions are concerned, the Court can very well initiate the proceedings suo motu on the basis of information received by it.

39. In the case of Sukhdeo Singh vs. Hon'ble C. J. Teja Singh and the Hon'ble Judges of the High Court of Pepsu, AIR 1954 S.C. 186, the Supreme Court held that the Code of Criminal Procedure, 1973, does not apply in matters of contempt tried by the High Court. The Court can deal with it summarily and adopt its own procedure, provided the procedure is fair, the contemnor is made aware of the charge against him, and he is given a fair and reasonable opportunity to defend himself.



40. In the case of C.K. Daphtary vs. O.P. Gupta, (1971) 1 S.C.C. 626, the Supreme Court held that a specific charge is not required to be framed, and the only requirement is that a fair procedure be followed while dealing with contempt under the Contempt of Courts Act, 1971.

41. The Supreme Court, in the case of E.M.Sankaran Namboodripad vs. T. Narayanan Nambiar, (1970) 2 S.C.C. 325, held as follows:

“6. The law of contempt stems from the right of the courts to punish by imprisonment or fines persons guilty of words or acts which either obstruct or tend to obstruct the administration of justice. This right is exercised in India by all courts when contempt is committed in facie curiae and by the superior courts on their own behalf or on behalf of courts subordinate to them even if committed outside the courts. Formerly, it was regarded as inherent in the powers of a court of record and now by the Constitution of India, it is a part of the powers of the Supreme Court and the High Courts. There are many kinds of contempts. The chief forms of contempt are insult to Judges, attacks upon them, comment on pending proceedings with a tendency to prejudice fair trial, obstruction to officers of courts, witnesses or the parties, abusing the process of the court, breach of duty by officers connected with the court and scandalising the Judges or the courts. The last form occurs, generally speaking, when the conduct of a person tends to bring the authority and administration of the law into disrespect or disregard. In this conduct are included all acts which bring the court into disrepute or disrespect or which offend its dignity, affront its majesty or challenge its authority. Such contempt may be committed in respect of a Single Judge or a single court but may, in certain circumstances, be committed in respect of the whole of the judiciary or judicial system. The question is whether in the circumstances of this case the offence was committed.”

42. It is held that the law of contempt stems from the right of the courts to punish by imprisonment or fines persons guilty of words or acts which either obstruct or tend to obstruct the administration of justice. Such right is exercised in India by all courts in India when contempt is committed in *facie curiae* and by the superior courts on their own behalf or on behalf of courts subordinate to them, even if committed outside the courts.

43. The Supreme Court further expressed that the chief forms of contempt are insult to Judges, attacks upon them, comment on pending proceedings with a tendency to prejudice fair trial, obstruction to officers of courts, witnesses or the parties, abusing the process of the court,



breach of duty by officers connected with the court, and scandalising the Judges or the courts. The last form occurs generally when a person's conduct tends to bring the authority and administration of law into disrespect or disregard.

44. The Supreme Court has held that such conduct includes all acts which bring the court into disrepute or disrespect, or which offend its dignity, affront its majesty, or challenge its authority. Such contempt may be committed with respect to a Single Judge or a single Court, or the whole of the judiciary or judicial system.

45. In the case of Vijay Kurle, In re, (2021) 13 S.C.C. 616, the Supreme Court dealt with the contemptuous act of an advocate, who made scandalous and scurrilous allegations against two Honorable Judges of the Supreme Court. Accordingly, the suo motu proceedings were initiated. The Supreme Court held that the procedure under Section 17 of the Contempt of Courts Act, 1971, for taking cognizance of contempt under Section 15 does not apply to suo motu petitions, as they deal with proceedings moved on a motion and not suo motu proceedings. The Supreme Court has held thus:

“30. In exercise of the aforesaid powers, the Contempt of Courts Act, 1971 was enacted by Parliament. Section 15 deals with cognizance of criminal contempt and the opening portion of Section 15 clearly provides that the Supreme Court or the High Courts may take action : (i) suo motu, (ii) on a motion moved by the Advocate General in case of the High Court or Attorney General/Solicitor General in the case of the Supreme Court, and (iii) on a petition by any other person with the consent in writing of the Advocate General/Attorney General/Solicitor General, as the case may be. Section 17 lays down the procedure to be followed when action is taken on a motion moved by the Advocate General/Attorney General/Solicitor General or on the basis of their consent and Section 17(2) does not deal with suo motu contempt petitions. Section 17(2)(a) of the Contempt of Courts Act will not apply to suo motu petitions because that deals with the proceedings moved on a motion and not suo motu proceedings. Section 17(2)(b) deals with contempt initiated on a reference made by the subordinate court. It is only in these cases that the notice is required to be issued along with a copy of the motion. As far as suo motu petitions are concerned, in these cases the only requirement of Form I which has been framed in pursuance of Rule 6 of the Rules of this Court is that the brief nature of the contempt has to be stated therein.



39. As far as the observations made in *Pallav Sheth v. Custodian* [*Pallav Sheth v. Custodian*, (2001) 7 SCC 549] are concerned, this Court in that case was only dealing with the question whether contempt can be initiated after the limitation prescribed in the Contempt of Courts Act has expired and the observations made therein have to be read in that context only. Relevant portion of para 30 of *Pallav Sheth* case [*Pallav Sheth v. Custodian*, (2001) 7 SCC 549] reads as follows : (SCC p. 566)

“30. There can be no doubt that both this Court and High Courts are courts of record and the Constitution has given them the powers to punish for contempt. The decisions of this Court clearly show that this power cannot be abrogated or stultified. But if the power under Article 129 and Article 215 is absolute, can there be any legislation indicating the manner and to the extent that the power can be exercised? If there is any provision of the law which stultifies or abrogates the power under Article 129 and/or Article 215, there can be little doubt that such law should not be regarded as having been validly enacted. It, however, appears to us that providing for the quantum of punishment or what may or may not be regarded as acts of contempt or even providing for a period of limitation for initiating proceedings for contempt cannot be taken to be a provision which abrogates or stultifies the contempt jurisdiction under Article 129 or Article 215 of the Constitution.”

The aforesaid finding clearly indicates that the Court held that any law which stultifies or abrogates the power of the Supreme Court under Article 129 of the Constitution or of the High Courts under Article 215 of the Constitution, could not be said to be validly enacted. It, however, went on to hold that providing the quantum of punishment or a period of limitation would not mean that the powers of the Court under Article 129 have been stultified or abrogated. We are not going into the correctness or otherwise of this judgment but it is clear that this judgment only dealt with the issue whether Parliament could fix a period of limitation to initiate the proceedings under the Act. Without commenting one way or the other on *Pallav Sheth* case [*Pallav Sheth v. Custodian*, (2001) 7 SCC 549] it is clear that the same has not dealt with the powers of this Court to issue suo motu notice of contempt.

40. In view of the above discussion, we are clearly of the view that the powers of the Supreme Court to initiate contempt are not in any manner limited by the provisions of the Act. This Court is vested with the constitutional powers to deal with the contempt. Section 15 is not the source of the power to issue notice for contempt. It only provides the procedure in which such contempt is to be initiated and this procedure provides that there are three ways of initiating a contempt:

(i) suo motu,

(ii) on the motion by the Advocate General/Attorney General/Solicitor General,
and

(iii) on the basis of a petition filed by any other person with the consent in writing of the Advocate General/Attorney General/Solicitor General.

As far as suo motu petitions are concerned, there is no requirement for taking consent of anybody because the Court is exercising its inherent powers to issue notice for contempt. This is not only clear from the provisions of the Act but also clear from the Rules laid down by this Court.”

46. The Supreme Court in the case of **Vijay Kurlle (supra)** further observed that when the Court exercises power under Article 215 of the Constitution, the provisions of the Contempt of Courts Act, 1971, including limitations, may not strictly apply. Even if, we segregate those matters where cognizance was taken beyond one year, there remain approximately 20 to 25 cases where the contemnor is guilty of contempt.

47. Writing scandalous letters, communications, and issuing legal and public notices to the Hon’ble Judges and the Hon’ble Chief Justice amounts to interference with the administration of justice and pending judicial proceedings, constituting “criminal contempt” under Section 2(c) of the Contempt of Courts Act, 1971.

48. The Supreme Court in the case of C.K. Daphtary vs. O.P. Gupta, (1971) 1 S.C.C. 626, held that a full-fledged charge is not required to be framed in contempt matters. The only requirement is that the contemnor is informed about the contemptuous conduct briefly, which suffices the requirements of Section 15 of the Contempt of Courts Act, 1971.

49. The Supreme Court, in the case of **Sukhdeo Singh (supra)**, held that the Code of Criminal Procedure, 1973 does not apply in matters of contempt tried by the High Court. The High Court can deal with it summarily and adopt its own procedure, provided the procedure is fair, and the contemnor is made aware of the charge against him and given a fair and reasonable opportunity to defend himself.



50. The Court has taken care to ensure that the contemnor was provided with a defense. Mr. Kurven Desai, learned advocate was appointed to represent him, as he repeatedly chose not to remain present despite the issuance of bailable and non-bailable warrants. The proceedings could not be kept pending indefinitely for want of his presence.

51. The order sheets reflect that the contemnor was informed, through various orders, about his unwarranted conduct and he was put to notice as to why the contempt proceedings should not be initiated. This is akin to a charge, sufficient to satisfy the requirements of a fair procedure.

52. In the present case, various orders passed by this Court manifest that the contemnor, Mr. Devesh Bhatt, was informed on numerous occasions about the present proceedings, however, his charade leveling scandalous, libelous, and scurrilous imputations against the Honorable Judges of this Court and Judicial Officers continued. The contemnor has cast aspersions against both the Judicial Officers and the Hon'ble Chief Justices and Hon'ble Judges of this Court.

53. Despite ample opportunities offered to him during the proceedings, he has not tendered any apology and, on the contrary, has continued his contemptuous conduct. By his conduct, the dignity and majesty of this Court has been obliterated.

54. His acts of filing a criminal complaint against the *amicus curiae*, seeking prosecution of Hon'ble Judges, and publishing public notices in the newspapers naming the Hon'ble Judges and Hon'ble Chief Justice of this Court unquestionably amount to interference with the course of administration of justice, tends to lower the dignity and majesty of this



Court, prejudice court proceedings, obstruct officers of the Court, and abuse the process of the Court, bringing disrepute or disrespect to the courts.

55. We reiterate the observations of the Supreme Court that an attack on a Judge or Judges, which is offensive, intimidatory, or malicious beyond condonable limits, must be met with the strong arm of the law in the name of public interest and public justice to strike a blow on him who challenges the supremacy of the rule of law by fouling its source and stream. In the case of Pritam Pal vs. High Court of M.P., 1993 Supp. (1) S.C.C. 529, the Supreme Court validated the action of the High Court in invoking jurisdiction under Article 215 of the Constitution by initiating suo motu contempt proceedings against an advocate. This judgment was referred to in the case of **Sukhdev Singh (supra)** as follows:

“40. In the case of Sukhdev Singh Sodhi [(1953) 2 SCC 571 : 1954 SCR 454 : AIR 1954 SC 186 : 1954 Cri LJ 460] it has been observed: (SCR pp. 455-56)

“... the power of a High Court to institute proceedings for contempt and punish where necessary is a special jurisdiction which is inherent in all courts of record and Section 1(2) of the Code expressly excludes special jurisdictions from its scope.”

41. The position of law that emerges from the above decisions is that the power conferred upon the Supreme Court and the High Court, being Courts of Record under Articles 129 and 215 of the Constitution respectively is an inherent power and that the jurisdiction vested is a special one not derived from any other statute but derived only from Articles 129 and 215 of the Constitution of India (See D.N. Taneja v. Bhajan Lal [(1988) 3 SCC 26 : 1988 SCC (Cri) 546]) and therefore the constitutionally vested right cannot be either abridged by any legislation or abrogated or cut down. Nor can they be controlled or limited by any statute or by any provision of the Code of Criminal Procedure or any Rules. The caution that has to be observed in exercising this inherent power by summary procedure is that the power should be used sparingly, that the procedure to be followed should be fair and that the contemnor should be made aware of the charge against him and given a reasonable opportunity to defend himself.

42. If we examine the facts of the present case in the backdrop of the proposition of law, the contentions raised by the opponent challenging the procedure followed by the High Court do not merit any consideration since the opponent has been served with a notice of contempt and thereafter permitted to go through the records and finally has been afforded a fair opportunity of putting forth his explanation for the charge levelled against him. Incidentally, we may say that the submission of the contemnor that the

impugned order is vitiated on the ground of procedural irregularities and that Article 215 of the Constitution of India is to be read in conjunction with the provisions of Sections 15 and 17 of the Act of 1971, cannot be countenanced and it has to be summarily rejected as being devoid of any merit.”

56. The summary jurisdiction of this Court, while dealing with such blatant disregard of the rule of law wherein the dignity and honour of individual Judges are attacked and scandalized, demands from this Court to curb this nuisance with an iron hand to uphold the majesty of the law, the administration of justice, and to repose the trust, faith, and confidence of the people.

57. The contemnor has committed both civil and criminal contempt. By disobeying various orders passed by this Court to conduct proceedings, and violating his Undertaking to appear in the proceedings, he has committed contempt of Court as defined under Section 2(b) which defines “civil contempt”. “Criminal contempt” is defined under Section 2(c) of the Contempt of Courts Act, 1971. All ingredients of Sections 2(b) and 2(c) of the Contempt of Courts Act, 1971, are satisfied in the present case.

58. Learned advocate Mr. Desai, appearing for the contemnor, has pleaded that, considering the timeline of the present proceedings and since the contemnor is almost 62 years of age, he may not be sentenced even if held guilty of contempt. This is opposed by learned Senior Advocate Mr. Pandya, who submitted that the contemnor, as per his information, is appearing before the trial courts or tribunals. He has referred to Rule 439 of the Gujarat High Court Rules, 1993, which debars an advocate found guilty of contempt from appearing, acting, or pleading in any court, unless he has purged himself of the contempt.



59. Mr. Pandya, learned Senior Advocate urged that the present order be conveyed to the Bar Council of Gujarat, the entire judiciary of the State, including the Tribunals, to prevent the contemnor from indulging in similar behavior that obstructs the administration of justice.

60. The egregious conduct of Mr. Devesh Bhatt and the facts and circumstances of each case justify our invoking the power under Article 215, read with the provisions of Contempt of Courts Act, 1971. Accordingly, by invoking provisions of Section 12 of the Contempt of Courts Act, 1971, we sentence the contemner for his conviction for the offence of civil and criminal contempt as under :

[a] The contemner – Mr. Devesh Bhatt is hereby sentenced to undergo simple imprisonment for a period of three months;

61. We further direct that the amount of Rs. 5,00,000/-, with accrued interest already deposited by the contemnor, shall be forfeited, as directed by this Court vide order dated 07.09.2016 for breach of the undertaking given by him to this Court. We also impose a cost of Rs. 1,00,000/- under Rule 21 of the Contempt of Courts (Gujarat High Court) Rules, 1984. The same shall be deposited before the Registry of this Court within three weeks, failing which the Registry shall issue recovery certificate and thereafter, appropriate proceedings to recover the amount of cost shall be undertaken under the Gujarat Land Revenue Code, 1879.

63. The Registry shall do the needful and inform the concerned police authority to arrest the contemnor, Mr. Devesh Bhatt, to execute the present order. No set-off of the period of incarceration, of approximately 80 days, shall be granted to the contemnor.

64. All the connected matters along with the directions are disposed of accordingly.

65. We appreciate the valuable assistance rendered by Mr.Asim J. Pandya, learned senior advocate as *amicus curiae* and also Mr. Kurven K. Desai, learned advocate appointed for representing the respondent No.1-contemnor.

66. Registry shall convey the present order to the Bar Council of Gujarat, Bar Association of High Court, and all other judicial forums of the State.

ORDER IN R/CRIMINAL MISC. APPLICATION NO.17445/2013

67. We quash and set aside the complaint filed by the contemnor, Mr.Devesh Bhatt, against learned Senior Advocate Mr.Asim J. Pandya, being Criminal Misc. Application No.17445 of 2013, as it was filed during the pendency of the contempt proceedings, constituting an obstruction to the administration of justice by preventing the *amicus curiae* from assisting this Court. The Coordinate Bench, vide order dated 25.10.2013, had already stayed further proceedings of the said complaint.

RULE is made absolute to the aforesaid.

Sd/- .
(A. S. SUPEHIA, J)

Sd/- .
(R. T. VACHHANI, J)

MVP/1